

Remarks

Claims 1-13 were pending in the application. Claims 1-13 were rejected. No claims were merely objected to and no claims were allowed. By the foregoing amendment, no claims are canceled, claims 1, 4, 8, 12, and 13 are amended, and no claims are added. No new matter is presented.

Claim Rejections-35 U.S.C. 112

Claims 1-13 were rejected under 35 U.S.C. 112(2). Applicant respectfully traverses the rejection.

The objected-to language has been removed from claims 4, 8, and 13. This leaves: (1) the general objection to the phrase "with constituents of a ceramic binder system" which was objected to as lacking clarity; (2) and the asserted omitted essential elements involving those components. By the foregoing amendment, the phrase has been amended to "means for forming a ceramic binder system". This is believed to address/overcome both grounds of rejection.

Claim Rejections-35 U.S.C. 102

Claims 1-3, 6-9, 12 and 13 were rejected as being anticipated by Longo, Sr. (US5857807). Applicant respectfully traverses the rejection.

Element 30 was asserted as the asserted constituents of a ceramic barrier system. However, element 30 merely identifies "an ash protective layer". There is no indication of how this forms a ceramic barrier system. It appears the Office action took an overbroad reading to the effect that because ash could be in a ceramic barrier system (even if in small quantity) anything with ash would anticipate the claim element even if the reference did not actually disclose use of such ash in a ceramic barrier system. However, the claim clearly requires the ceramic barrier system (now identified via a 112(6) limitation).

Claim Rejections-35 U.S.C. 103

Claims 1-13 were rejected under 35 U.S.C. 103(a) as being unpatentable over SOLIDRY® CONC safety data sheet; CONSOLID® 444 safety data sheet "Sourcebook of Alternative Technologies for Freshwater Augmentation in East and Central Europe; and Longo,

Sr. Applicant respectfully traverses the rejection.


The Sourcebook entry identifies a system having four layers: a soil layer; a leachate-collection zone; a primary barrier layer of HDPE geomembrane; and a CONSOLID® clay mineral sealing layer. The clay sealing layer was identified as 12cm thick consisting of clay, C 444® (1%), Solidry® (4kg/m²), and sand.

The Office action has merely found various individual elements in the references but has not articulated the exact nature of the combination, let alone a specific motivation/reason to combine. For example, as is discussed further below, the question is begged as to the exact nature of the combination.

It appears the 112 rejection was similarly used to allow a broad license in making on-art rejections. The apparent nature of the combination merely cites the presence of the identified Solidry® and CONSOLID® in clay without reference to whether a ceramic binder system is actually formed. If so, this is overcome for the same reasons noted above. If not, Applicant requests a more clear articulation of the nature of the combination and any reasons. For example, with the prior art as a whole including Longo, Sr., why wouldn't one merely use Longo, Sr.? If one seeks to modify Longo, Sr., what is the exact nature of the modification (e.g., is it adding solidry and consolid to the ash?) and what is the motivation? Where is the expectation of success?

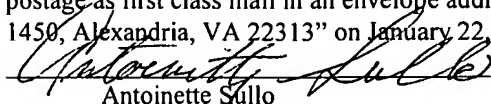
Accordingly, Applicant submits that claims 1-13 are in condition for allowance. Reconsideration and further examination are requested. Please charge any fees or deficiency or credit any overpayment to our Deposit Account of record.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on January 22, 2008.


Antoinette Sullo